SUPREME COURT, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1970.

No. 1374.

LEONARD W. GRANGER, *et al.*,

Petitioners,

vs.

CITY OF MENTOR,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF OHIO.

BRIEF OF RESPONDENT IN OPPOSITION.

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ARGUMENT AGAINST CERTIORARI.

There are no special or important issues involved here; no instance of State override of any Federal constitutional right.

Petitioners and the City executed an option contract in 1964 for the purchase of a parcel of land the former owned for a price that reflected its appraised value, as determined by an independent appraiser. The City subsequently exercised its option and petitioners reneged, claiming the price was insufficient.

True, the parcel's market value had increased in the interim. But surely that does not invalidate an option to buy, nor constitute its exercise by a public body deprivation of property without due process.

Counsel for petitioners ignores the evidence submitted to the Trial Court by his phrasing of the Question

Presented on page two of the petition. The City did *not* compel the options as a condition to issuance of a sand removal permit. *They were voluntarily executed.* This was the conclusion of the Trial Court in its Separate Findings of Fact:

> "1. That the options granted by the Defendants to the City of Mentor, being Exhibits 1 and 2 herein, were properly and voluntarily executed and delivered by the Defendants to the City of Mentor.
>
> "2. That said options, being Exhibits 1 and 2, upon exercise thereof, became a valid, binding and enforceable contract for the sale of said premises upon the terms and conditions set forth therein.
>
> "3. That the execution and delivery of said options by the Defendants to the Plaintiff was without any coercion or duress, physical or legal."

And, as stated in the Trial Court's Journal Entry ". . . there was no physical or legal duress by Plaintiff in securing said option . . ." (Petition for Writ of Certiorari, p. 5).

This Court does not review such evidential disputes or determinations, *Grayson v. Harris,* 267 U.S. 352, 358 (1924); *Portland Railway Company v. Railroad Commissioner,* 229 U.S. 397, 412 (1912); *Fry Roofing Company v. Wood,* 344 U.S. 157, 160 (1952).

The judgment of the Trial Court was sustained by the 11th District Court of Appeals of Ohio. Certification was refused by the Ohio Supreme Court on the grounds that there was no constitutional issue and no question of great public interest. The Supreme Court refused a rehearing on Petitioner's Motion.

The City is anxious to begin developing the parcel for municipal use. It has been waiting to do so since 1968. We appeal to the Court to refuse the Writ and allow us to proceed.

CONCLUSION.

Certiorari should be denied.

Respectfully submitted,

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